

IN THE UNITED STATES DISTRICT COURT
FOR THE EASTERN DISTRICT OF WISCONSIN
GREEN BAY DIVISION

UNITED STATES OF AMERICA and)	
THE STATE OF WISCONSIN,)	
)	
Plaintiffs,)	Civil Action No. 1:09-cv-00692
)	
v.)	Hon. William C. Griesbach
)	
GEORGE A. WHITING PAPER)	
COMPANY, et al.,)	
)	
Defendants.)	
)	
)	

**ORDER ENTERING CONSENT DECREE AND
AUTHORIZING DISBURSEMENTS FROM COURT REGISTRY ACCOUNT**

Plaintiffs, the United States and the State of Wisconsin, filed this action under the Comprehensive Environmental Response, Compensation, and Liability Act (“CERCLA”), 42 U.S.C. §§ 9601-9675, alleging that defendant City of De Pere is among the parties responsible for polychlorinated biphenyl (“PCB”) contamination at the Lower Fox River and Green Bay Site. The United States published notice of the lodging of the proposed Consent Decree in the Federal Register on October 8, 2009, which commenced a thirty-day public comment period. 74 Fed. Reg. 51878 (October 8, 2009). The United States received one joint set of comments submitted by Appleton Papers Inc. and NCR Corporation.

The United States, the State of Wisconsin, and the City of De Pere all support entry of the proposed Consent Decree, and the Plaintiffs have filed a motion asking the Court to approve and enter the proposed Consent Decree. The Consent Decree is fair, reasonable, and consistent with the purposes of CERCLA. In their motion, the Plaintiffs have represented that the Consent

Decree is the product of arms-length negotiations. The City of De Pere is eligible for treatment under CERCLA's *de minimis* settlement provisions. 42 U.S.C. § 9622(g). The settlement would reimburse an appropriate portion of certain CERCLA response costs and natural resource damage assessment costs incurred by the Plaintiffs and would facilitate important natural resource restoration work in the Fox River/Green Bay area. Finally, the Consent Decree is consistent with CERCLA's strong preference for early settlement with *de minimis* parties, and it would ensure that resources are devoted to cleanup and restoration rather than litigation.

For the reasons stated,

NOW, THEREFORE, in light of the Plaintiffs' Motion, and good cause appearing,

IT IS HEREBY ORDERED:

1. The Plaintiffs' motion to enter the Consent Decree is **GRANTED**, and the Consent Decree is hereby **APPROVED** and **ENTERED**.
2. The Clerk of the Court shall immediately disburse \$210,000.00 (and all accrued interest on that deposit) to the Plaintiffs as provided by Consent Decree Paragraph No. 6. More specifically, pursuant to Consent Decree Paragraph No. 6 and this Order for withdrawal:
 - (i) \$174,300 (plus corresponding interest on that amount) shall be paid to the United States to be deposited in the Lower Fox River and Green Bay Superfund Site Special Account within the United States Environmental Protection Agency's Hazardous Substance Superfund, to be retained and used to conduct or finance response actions at or in connection with the Site, or to be transferred by EPA to the EPA's Hazardous Substance Superfund; and
 - (ii) \$35,700.00 (plus corresponding interest on that amount) shall be paid to the United States to be deposited in a Site-specific sub-account within the United States Department of the Interior's Natural Resource

Damage Assessment and Restoration Fund, to be managed by DOI for the joint benefit and use of the Fox River/Green Bay Natural Resource Trustees to pay for the natural resource damage restoration projects jointly selected by the Trustees and/or to be applied toward natural resource damage assessment costs incurred by DOI and the State.

3. The disbursements to the United States shall be made in accordance with payment instructions to be provided to the Clerk of the Court by the Financial Litigation Unit of the Office of the United States Attorney for the Eastern District of Wisconsin. Pursuant to 28 U.S.C. § 1914(b) and the Judicial Conference Schedule of Fees, no fees shall be charged for services rendered on behalf of the United States in conjunction with this deposit of funds into the Court Registry Account.

SO ORDERED.

Date

William C. Griesbach
United States District Judge